

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 IO-13 ISO-00 STR-05 STRE-00 SSO-00
NSCE-00 USIE-00 INRE-00 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 FRB-03 H-01 INR-07 INT-05 L-03
LAB-04 NSAE-00 PA-01 AID-05 SS-15 ITC-01 TRSE-00
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FM USMISSION GENEVA
TO SECSTATE WASHDC IMMEDIATE 1094
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USEEC

EB/ITP FOR BARRACLOUGH

PASS STR ELECTRONICALLY FOR WOLFF

E.O. 11652: N/A
TAGS: GATT, ETRD
SUBJECT: GATT CONSULTATIVE GROUP OF EIGHTEEN (CG-18)

WE HAVE OBTAINED AN ADVANCE COPY IN FRENCH OF EC NOTE ON CG-18
AGENDA ITEM 5 -- DEFINITIVE APPLICATION OF THE GATT. IN NOTE
EC SUBSCRIBES TO GATT SECRETARIAT 1965 EXHORTATION THAT NOW
IS AN OPPORTUNE MOMENT TO REINFORCE THE IMPORTANCE AND AUTHORITY
OF GATT BY THE DEFINITIVE ACCEPTANCE OF THE GATT. DOCUMENT
THEN DESCRIBES HOW PRACTICES INCONSISTENT WITH GATT BUT COVERED
BY PROTOCOLS OF PROVISIONAL APPLICATION (PPA) CAN BE AMENDED
IN THE CONTEXT OF MTN. EC SUGGESTS, IN ADDITION TO
AMENDMENTS OF PARTICULAR LEGISLATION, THAT MEMBERS CONSIDER
ASKING THE LEGISLATURES TO APPROVE THE DEFINITIVE APPLICATION
OF THE GATT. EC PAPER ALSO OFFERS IDEA OF A TRANSITIONAL
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PERIOD IN ORDER TO ACCOMMODATE DEFINITIVE ACCEPTANCE.
FINALLY, DOCUMENT CALLS FOR INVENTORY OF PRE-EXISTING
LEGISLATION NOT IN CONFORMITY WITH GATT SO AS TO FACILITATE
MTN WORK IN THESE AREAS. OUR ROUGH UNOFFICIAL
TRANSLATION OF PERTINENT PARAGRAPHS IS AS FOLLOWS: QUOTE.

THE MTN, WHICH IS NOW ENTERING IN ITS FINAL PHASE,

WITHOUT DOUBT REPRESENTS AN OCCASION TO BE SEIZED IN ORDER TO REGULARIZE SOME QUESTIONS OF GENERAL INTEREST. THE QUESTION OF THE DEFINITIVE APPLICATION OF THE GATT COMES NATURALLY TO MIND. IN EFFECT, THE MTN IS LIKELY TO END WITH THE CONCLUSION OF CERTAIN MULTILATERAL AGREEMENTS, PARTICULARLY IN THE NTM AREA. THE DIFFERENT PARTIES COULD INTEGRATE IN THEIR INTERNAL LEGISLATION NEW OBLIGATIONS WHICH TRANSLATE THUS INTO A MORE COMPLETE AND COMPELLING APPLICATION OF THE GENERAL AGREEMENT IN THE VARIOUS AREAS OF ITS APPLICATION. THIS POSES THE QUESTION OF KNOWING IF IT IS NOT JUSTIFIED IN THESE CONDITIONS TO EXTEND THIS OPERATION TO THE TOTALITY OF THE GENERAL AGREEMENT. ON THE OTHER HAND, IN THE ABSENCE OF SUCH AN EXTENSION, ONE COMES ON A SOMEWHAT PARADOXICAL SITUATION IN WHICH THE GENERAL AGREEMENT CONTINUES THE PROVISIONAL APPLICATION OF CERTAIN DISPOSITIONS OF THE GATT WHILE THE CONCLUSION OF MULTILATERAL AGREEMENTS IN THE MTN COULD BE INCLUDED IN INTERNAL LEGISLATION.

FURTHERMORE, THE MTN FURNISHES THE OCCASION TO MAKE PROGRESS TOWARD BRINGING INTO CONFORMITY NATIONAL LEGAL DISPOSITIONS INCOMPATIBLE WITH THE COMMON RIGHTS OF THE GENERAL AGREEMENT BUT COVERED BY THE FIELD OF APPLICATION OF THE PROTOCOL OF PROVISIONAL APPLICATION (PPA). SUCH PROGRESS IS INDISPENSABLE. IN EFFECT, DURING THE LIMITED OFFICIAL USE

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COURSE OF 30 YEARS, SEVERAL CONTRACTING PARTIES HAVE REPLACED THEIR LEGISLATION FALLING UNDER THE PPA BY OTHER LAWS WHICH THEREFORE DO NOT CREATE DIFFICULTIES FOR THE DEFINITIVE APPLICATION OF THE GATT.

OTHER CONTRACTING PARTIES CONTINUE TO MAINTAIN THE PRIVILEGES ACQUIRED BY THEIR LEGISLATION PRE-DATING THE GA EVEN WHEN THIS LEGISLATION HAS BEEN THE OBJECT OF NATIONAL REVISION. SUCH AN ATTITUDE DOES NOT RESPOND TO THE "REASONABLE EXPECTATIONS" OF OTHER CONTRACTING PARTIES WHO CONSIDER THAT AFTER 30 YEARS OF APPLICATION OF THE GENERAL AGREEMENT, ALL OF THE CONTRACTING PARTIES SHOULD BE ALIGNED ON THE RULES OF COMMON RIGHTS INSCRIBED IN THE GENERAL AGREEMENT.

CERTAIN OF THESE DIFFICULTIES CAN STILL EXIST INTERNALLY IN ORDER TO COMPLETE THIS WORK OF HARMONIZATION. IN ORDER TO REINFORCE THE POLITICAL WILL TO COME TO A DEFINITIVE APPLICATION OF THE GENERAL AGREEMENT CONFORMING TO ITS ARTICLE XXVI, WE COULD ENVISAGE TRANSITORY SOLUTIONS PERMITTING INTERESTED CONTRACTING PARTIES TO HAVE THE NECESSARY DELAYS IN ORDER TO ADJUST THEIR

LEGISLATION TO THE DISPOSITIONS OF THE GENERAL AGREEMENT
AS LONG AS SUCH SOLUTIONS DO NOT RETARD THE APPLICATION
OF OBLIGATIONS NEGOTIATED IN THE TOKYO ROUND.

TOWARD THIS END, IT WOULD NO DOUBT BE USEFUL IN A
PRACTICAL SENSE ON THE ONE HAND TO PROCEED WITH AN
INVENTORY OF INFORMATION WHICH COULD BE FURNISHED BY
GOVERNMENTS OF THEIR PRE-EXISTING LEGISLATION WHICH IS
INCOMPATIBLE WITH THE GENERAL AGREEMENT (PART II) OR
COVERED BY PROTOCOLS OF ACCESSION AND WHICH ARE STILL
IN EFFECT TODAY AND, SECONDLY, TO KNOW THE INTENTIONS
OF INTERESTED GOVERNMENTS ON THE SUBJECT OF APPLICATION
OF THE GENERAL AGREEMENT CONFORMING TO ARTICLE XXVI. UNQUOTE.

VANDEN HEUVEL
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NNN

Message Attributes

Automatic Decaptoning: X
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Control Number: n/a
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Decapton Date: 01-Jan-1960 12:00:00 am
Decapton Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
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Disposition History: n/a
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TAGS: ETRD, PORG, GATT
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Type: TE
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